

CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 12/14/04

AGENDA ITEM 5

WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Text Amendment Application PL-2004-0600 - Relative to Definition, Conditionally Permitted Use, and Minimum Design and Performance Standards for Theaters and to the Off-Street Parking Regulations

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution approving the Negative Declaration and introduce the attached ordinances.

DISCUSSION:

On July 20, 2004, the City Council approved the construction of Cinema Place, a twelve screen cinema, restaurants, retail spaces and a 356 space parking structure at the corner of B Street and Foothill Boulevard. The Cinema Place project implements the General Plan Policy for the Downtown Area that states: "Maintain the Downtown as a focal point for the City so that it continues to express the City's history, provides a venue for cultural vitality, and retains its role as a center for social, political, and other civic functions." Cinema Place is designed to create a retail and entertainment anchor for the downtown, become the focus for shopping and eating establishments and stimulate the revitalization of B Street as a social and cultural center.

The text changes recommended both define and clarify the nature of theaters and their appropriate location within the City. The current Zoning Ordinance text provides no definition for "Theater," but allows a "Theater" to be a primary use in five different commercial districts. The Off-Street Parking Regulations provide specific requirements with regard to number of parking spaces required for theaters, but there are other factors, such as impact on traffic and preexisting public investment, which are not addressed specifically in any ordinance but should also be considered when reviewing proposed development of new theaters.

Definition of Theater

Because there is no definition of "Theater" in the current ordinance, it is useful to define what is meant by the term. Staff has proposed a definition that subdivides the term "Theater" into three sub-categories: Small Motion Picture Theater, Large Motion Picture Theater and Live Performance Theater. The proposed definitions are as follows:

THEATER. A building or outdoor structure where films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown, or an establishment regularly featuring live performance of dramatic productions, for any form of consideration.

- (a) **SMALL MOTION PICTURE THEATER.** An establishment having two (2) or fewer screens or less than two hundred (200) seats.
- (b) **LARGE MOTION PICTURE THEATER.** An establishment having three (3) or more screens or two hundred (200) or more seats and showing first run films. Large Motion Picture Theaters are also referred to as multi-plex or multi-screen theaters.
- (c) **LIVE PERFORMANCE THEATER.** An establishment having one or more stages and featuring live performance of dramatic, musical, dance or other artistic productions.

Location of Theaters

The Zoning Ordinance currently allows any type of theater as a primary use in almost every commercial area of the City with minimal review. While Small Motion Picture Theaters and Live Performance Theaters may be appropriate as primary uses in multiple commercial districts, it may also be appropriate to provide guidance with regard to the development of Large Motion Picture Theaters so that they assist rather than deter the revitalization of the downtown. With a minimum of 200 seats and three or more screens, such multi-plexes draw a continuous stream of patrons from early afternoon through the late evening. It is important that there be sufficient parking and adequate street capacity for traffic in proximity to the theater to avoid negative impacts on adjacent businesses and surrounding residential areas. Requiring Large Motion Picture Theaters to be subject to a conditional use permit process would provide a forum to address these impacts.

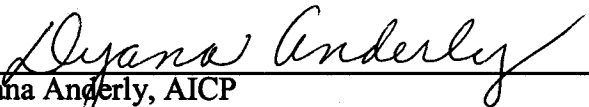
The proposed text amendment to the Zoning Ordinance provides that Large Motion Picture Theaters be subject to a conditional use permit in all of the districts where Theaters are currently allowed by right, with the exception of the Central City-Plaza district and an area of the Central City-Commercial district bounded by A and D and Grand and Second Streets (Exhibit B). This exception continues to allow Large Motion Picture Theaters by right in the downtown core and protects the City's interest in furthering the downtown as a social, cultural and civic center.

A change is also proposed to the Off-Street Parking Regulations, in which the current parking standard for theaters in the CC District is one space for each 315 square feet of gross floor area. It is recommended that this standard apply only to the downtown core area, bounded by A and D and Grand and Second Streets, and that the remainder of the CC District adhere to the same standard of one space for every four seats that applies to all other districts.


The proposed amendments also seek to avoid negative impacts of Large Motion Picture Theaters on surrounding properties by revising the Minimum Design and Performance Standards in the Zoning Ordinance to demonstrate the ability to provide on-site parking at a ratio of one parking space for every four seats (the current standard in all but the CC District) and to maintain or improve the existing Level of Service at all affected intersections. In addition, the proposed standards require submission of an independent study documenting the absence of negative economic impact upon the downtown if another Large Motion Picture Theater were approved.

Planning Commissioners unanimously recommended that the City Council approve the text amendments. No one from the public appeared at the hearing to speak on the amendment.

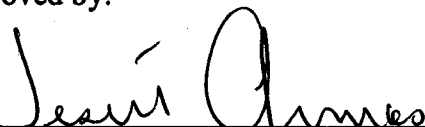
Prepared by:


Dyana Anderly, AICP
Planning Manager

Recommended by:


Sylvia Ehrental
Director of Community and Economic Development

Approved by:


Jesús Armas, City Manager

Attachments:	Exhibit A.	Map of Downtown Core Area
	Exhibit B.	Text Change
	Exhibit C.	Negative Declaration and Environmental Checklist Form
	Exhibit D.	Planning Commission Staff Report and Minutes dated November 18, 2004
		Draft Resolution and Ordinance

12/7/04

**DUE TO THE LENGTH OR COLOR
OF THE REFERENCED EXHIBIT,
IT HAS BEEN ATTACHED AS A
SEPARATE LINK.**

TEXT CHANGE FOR MOTION PICTURE THEATERS

SEC. 10-1.3500 DEFINITIONS

SEC. 10-1.3510 USES AND ACTIVITIES DEFINED.

THEATER. A building or outdoor structure where films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown, or an establishment regularly featuring live performance of dramatic productions, for any form of consideration.

- (a) **SMALL MOTION PICTURE THEATER.** An establishment having two (2) or fewer screens or less than two hundred (200) seats.
- (b) **LARGE MOTION PICTURE THEATER.** An establishment having three (3) or more screens or two hundred (200) or more seats and showing first run films. Large Motion Picture Theaters are also referred to as multi-plex or multi-screen theaters.
- (c) **LIVE PERFORMANCE THEATER.** An establishment having one or more stages and featuring live performance of dramatic productions.

Sec. 10-1.1000 GENERAL COMMERCIAL DISTRICT

Sec. 10-1.1015 USES PERMITTED.

- a. (5) (ee) Theater (Small Motion Picture or Live Performance only)

Sec. 10-1.1020 CONDITIONALLY PERMITTED USES.

- b. (5) (d) Theater, Large Motion Picture (See Sec. 10-1.1045 for special requirements)

Sec. 10-1.1045 MINIMUM DESIGN AND PERFORMANCE STANDARDS.

- w. Large Motion Picture Theaters having three (3) or more screens or two hundred (200) or more seats and showing first run films shall demonstrate the ability to provide on-site parking at a ratio of one (1) parking space for every four (4) seats and to maintain or improve the existing Level of Service at all affected intersections. In addition, a study acceptable to the Planning Director documenting the absence of negative economic impact upon the downtown of the opening of another large motion picture theater must accompany the application.

SEC.10-1.800 NEIGHBORHOOD COMMERCIAL DISTRICT (CN)

Sec. 10-1.815 USES PERMITTED.

- a. (5) (ff) Theater (Small Motion Picture or Live Performance only)

Sec. 10-1.820 CONDITIONALLY PERMITTED USES.

- b. (5) (d) Theater, Large Motion Picture (See Sec. 10-1.1045 for special requirements)

SEC. 10-1.900 NEIGHBORHOOD COMMERCIAL-RESIDENTIAL DISTRICT (CN-R)

Sec. 10-1.915 USES PERMITTED.

- a. (5) (ee) Theater (Small Motion Picture or Live Performance only)

Sec. 10-1.920 CONDITIONALLY PERMITTED USES.

- b. (5) (d) Theater, Large Motion Picture (See Sec. 10-1.1045 for special requirements)

SEC. 10-1.1300 CENTRAL BUSINESS DISTRICT (CB)

Sec. 10-1.1315 USES PERMITTED.

- a. (5) (ee) Theater (Small Motion Picture or Live Performance only)

Sec. 10-1.1320 CONDITIONALLY PERMITTED USES.

- b. (5) (d) Theater, Large Motion Picture (See Sec. 10-1.1045 for special requirements)

Sec. 10-2.411 CENTRAL PARKING DISTRICT NON-RESIDENTIAL PARKING REQUIREMENTS.

1.0 space for each 315 square feet of gross floor area except for theaters; 1.0 space for each 4.0 seats.

SEC. 10-1.1520 CENTRAL CITY – COMMERCIAL SUBDISTRICT (CC-C)

Sec. 10-1.1522 CC-C PERMITTED USES.

- a. (5) (cc) Theater (Small Motion Picture or Live Performance. Large Motion Picture Theater located between A and D and Grand and Second Streets)

Sec. 10.1-1523 CONDITIONALLY PERMITTED USES.

- b. (5) (a) Theater, Large Motion Picture (Located outside area between A and D and Grand and Second Streets. See Sec. 10-1.1045 for special requirements)

SEC. 10.1-1540 CENTRAL CITY – PLAZA SUBDISTRICT (CC-P)

Sec. 10.1.1542 CC-P PERMITTED USES.

- a. (5) (bb) Theater (Small Motion Picture, Large Motion Picture or Live Performance)



CITY OF HAYWARD NEGATIVE DECLARATION

Notice is hereby given that the City of Hayward finds that this project could not have a significant effect on the environment as prescribed by the California Environmental Quality Act of 1970, as amended will occur for the following proposed project:

I. PROJECT DESCRIPTION:

Text Amendment No. PL – 2004 -0600— A text amendment to the Zoning Ordinance, to introduce the following: Section 10-1.3510, Definition of *Theater*-Small Motion Picture Theater, Large Motion Picture Theater and Live Performance Theater; *Uses Permitted*-Sections 10-1.1015 a.(5)(ee), 10-1.815 a.(5)(ff), 10-1.915 a.(5)(ee), 10-1.1315 a.(5)(ee) and 10-1.1522 a.(5)(cc) - *Theater (Small Motion or Live Performance only)*; and *Conditionally Permitted Uses*- Sections 10-1.1020b.(5)(d), 10-1.820 b.(5)(d), 10-1.920b.(5)(d), 10-1.1320b.(5)(d) and 10-1.1523 b.(5)(a) in the General Commercial (CG), Neighborhood Commercial (CN), Neighborhood Commercial-Residential (CN-R), Central Business Districts and Central City-Commercial (CC-C) Subdistrict. In addition, amending Section 10-1.1045 w., Minimum Design and Performance Standards in the General Commercial Off-Street Parking Regulations-Large Motion Picture Theater. And amending the Off-Street Parking Regulations Section 10-2.411, Central Parking District Non-Residential Parking Requirements.

II. FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:

The proposed project could not have a significant effect on the environment.

III. FINDINGS SUPPORTING DECLARATION:

1. The proposed project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist has been prepared for the proposed project. The Initial Study has determined that the proposed project could not result in significant effects on the environment.
2. The text amendment will not adversely affect any scenic resources. The text amendment provides increase review of future theater projects with respect to potential impacts on scenic resources as use permit will be required that will provide the opportunity to analyze this potential impact, which is currently limited to design issues.
3. The text amendment will not result in significant impacts related to changes into air quality. Air quality, the amount of traffic, parking, and road conditions that will be analyzed for each future theater project. The text amendment provides increase review of future theater projects with respect to potential impacts on scenic resources as use permit will be required that will provide the opportunity to analyze this potential impact, which is currently limited to design issues. The text amendment further requires that an adequate

amount of parking associated with a theater project be required, whereas currently in some areas the parking requirement is less.

4. The text amendment will not result in significant impacts to biological resources such as wildlife and wetlands. Biological resources will be analyzed with each future theater project.
5. The text amendment will not result in significant impacts to cultural resources including historical resources, archaeological resources, paleontological resources, unique topography or disturb human remains. These impacts will be analyzed with each future theater project.
6. Seismic analysis is required for all future theaters. In addition, tenant improvements and construction of theaters would be required to comply with the Uniform Building Code Standards to minimize seismic risk due to ground shaking. A soils analysis is required to be approved prior to the issuance of building and grading permits.
7. The text amendment is consistent with the General Plan and implements the policies of the General Plan, Land Use and Economic Development Elements, and the Downtown Design Plan and the Core Area Specific Plan to support the downtown as an entertainment venue.
8. The text amendment will not impact recreational facilities and parks. Theaters as a recreational facility will still be allowed in commercial zoning districts subject to approval of a use permit.
9. The text amendment will not result in a significant impact to public services. For all future theaters, potential impacts on public service will be analyzed.
10. The text amendment will not impact the City of Hayward Sanitary Sewer District. All new theater projects will be reviewed on a case-by-case basis.

IV. PERSON WHO PREPARED INITIAL STUDY:



Arlynn J. Camire, AICP Associate Planner

Dated: October 29, 2004

COPY OF INITIAL STUDY (ENVIRONMENTAL CHECKLIST) IS ATTACHED

For additional information, please contact Dyana Anderly at the City of Hayward, Planning Division, 777 B Street, Hayward, CA 94541-5007, telephone (510) 583-4214 or e-mail dyana.anderly@hayward-ca.gov.

DISTRIBUTION/POSTING

- Provide copies to all organizations and individuals requesting it in writing.
- Reference in all public hearing notices to be distributed 20 days in advance of initial public hearing and/or published once in Daily Review 20 days prior to hearing.
- Project file.
- Post immediately upon receipt at the City Clerk's Office, the Main City Hall bulletin board, and in all City library branches, and do not remove until the date after the public hearing.



Environmental Checklist Form

1. Project title: **Text Amendment No. PL – 2004 -0600**
2. Lead agency name and address:
City of Hayward, 777 B Street, Hayward, CA 94541
3. Contact person:
Dyana Anderly, AICP, Planning Manager (510) 583-4214, dyana.anderly@hayward-ca.gov
5. Project sponsor's name and address: **City of Hayward, Planing Director**
6. General plan Designation:
Commercial-Retail and Office,
General and Commercial/High
Density Residential, and Retail
and Office Commercial
7. Zoning:
General Commercial (CG), Neighborhood
Commercial (CN), Neighborhood
Commercial-Residential (CN-R), Central
Business Districts Central City-Commercial
Subdistrict (CC-C)
8. Description of project: A text amendment to the Zoning Ordinance, to introduce the following: Section 10-1.3510, Definition of *Theater*-Small Motion Picture Theater, Large Motion Picture Theater and Live Performance Theater; *Uses Permitted*- Sections 10-1.1015 a.(5)(ee), 10-1.815 a.(5)(ff), 10-1.915 a.(5)(ee), 10-1.1315 a.(5)(ee) and 10-1.1522 a.(5)(cc) - *Theater (Small Motion or Live Performance only)*; and *Conditionally Permitted Uses*- Sections 10-1.1020b.(5)(d), 10-1.820 b.(5)(d), 10-1.920b.(5)(d), 10-1.1320b.(5)(d) and 10-1.1523 b.(5)(a) in the General Commercial (CG), Neighborhood Commercial (CN), Neighborhood Commercial-Residential (CN-R), Central Business Districts and Central City-Commercial (CC-C) Subdistrict. In addition, amending Section 10-1.1045 w., Minimum Design and Performance Standards in the General Commercial Off-Street Parking Regulations-Large Motion Picture Theater. And amending the Off-Street Parking Regulations Section 10-2.411, Central Parking District Non-Residential Parking Requirements.
9. Surrounding land uses and setting: Hayward Commercial Districts and surrounding commercial and residential properties.
10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.) N/A

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|--|---|--|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology /Soils |
| <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology / Water Quality | <input type="checkbox"/> Land Use / Planning |
| <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise | <input type="checkbox"/> Population / Housing |
| <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation/Traffi |
| <input type="checkbox"/> Utilities / Service Systems | <input type="checkbox"/> Mandatory Findings of Significance | |

DETERMINATION: On the basis of this initial evaluation:

- ☒ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature

Date: October 26, 2004

Arlynn J. Camire, AICP

Printed Name

City of Hayward

Agency

ENVIRONMENTAL ISSUES:

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista? <i>Comment: This text amendment would allow Motion Picture and Live Performance Theaters within the in the General Commercial (CG), Neighborhood Commercial (CN), Neighborhood Commercial-Residential (CN-R), Central Business Districts and Central City-Commercial (CC-C) Subdistrict as permitted and conditional uses. The text amendment will not affect any scenic vista or scenic resources. Each project would be reviewed on a case-by-case basis.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? <i>Comment: See I a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings? <i>Comment: See I a. The text amendment will not affect the visual character or quality of the City of Hayward.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? <i>Comment: The text amendment will not create a substantial source of light. Each theater would be reviewed on a case-by-case basis.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

II. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? <i>Comment: The text amendment will not affect farmland. The Agricultural District would not be affected by this text amendment. Theaters that would result from the adoption of this text amendment will not be permitted to operate in the Agricultural District.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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- | | Potentially
Significant
Impact | Potentially
Significant
Unless
Mitigation
Incorporation | Less Than
Significant
Impact | No
Impact |
|---|--------------------------------------|---|------------------------------------|-------------------------------------|
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?
<i>Comment: The text amendment will not affect farmland.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?
<i>Comment: The text amendment will not affect farmland. All zoning districts which would allow theaters are located in urban areas of the City of Hayward.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

III. AIR QUALITY -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the text amendment:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Conflict with or obstruct implementation of the applicable air quality plan?
<i>Comment: The text amendment will not obstruct the implementation of an air quality plan.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Violate any air quality standard or contribute substantially to an existing or project air quality violation?
<i>Comments: The text amendment will not negatively affect air quality. The impacts of each theater will be reviewed on a case-by-case basis. Air quality standard will be required to be met.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Result in a cumulatively considerable net increase of any criteria pollutant for which the text amendment region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?
<i>Comment: See III b.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Expose sensitive receptors to substantial pollutant concentrations?
<i>Comment: See III b.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Create objectionable odors affecting a substantial number of people?
<i>Comment: See III b.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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IV. BIOLOGICAL RESOURCES -- Would the project:

- a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: The text amendment will not adversely affect biological resources. Each theater project will be reviewed on a case-by-case basis.

- b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: See IV a.

- c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: See IV a.

- d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: See IV a.

- e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: See IV a.

- f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: See IV a.

V. CULTURAL RESOURCES -- Would the project:

- a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: The text amendment will not adversely affect historical resources. All theater projects will be required to be reviewed on a case-by-case basis and historical resources will be reviewed.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? <u>Comment:</u> <i>The text amendment will not adversely affect archaeological resources.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? <u>Comment:</u> <i>The text amendment will not adversely affect unique paleontological or unique geologic feature. All theater projects will be required to be reviewed on a case-by-case basis.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries? <u>Comment:</u> <i>No new cemeteries are permitted in the City of Hayward and the text amendment would not affect existing cemeteries. All theater projects will be required to be reviewed on a case-by-case basis. If human remains are discovered, the authorities would be contacted.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VI. GEOLOGY AND SOILS -- Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. <u>Comment:</u> <i>The text amendment will not be affected by earthquake faults. All theater projects will be required to be reviewed on a case-by-case basis.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking? <u>Comment:</u> <i>All theater projects will be required to be reviewed on a case-by-case basis. All new construction and tenant improvements are required to meet Uniform Building Code.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction? <u>Comment:</u> <i>All theater projects will be required to be reviewed on a case-by-case basis. All new construction and tenant improvements are required to meet Uniform Building Code.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides? <u>Comment:</u> <i>All theater projects will be required to be reviewed on a case-by-case basis.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
b) Result in substantial soil erosion or the loss of topsoil? <i>Comment: All theater projects will be required to be reviewed on a case-by-case basis. A grading plan is required for all new construction.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the text amendment, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? <i>Comment: All theater projects will be required to be reviewed on a case-by-case basis.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? <i>Comment: All theater projects will be required to be reviewed on a case-by-case basis and would be required to comply with Uniform Building Codes standards for tenant improvements and new construction.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater? <i>Comment: There is a sewer and stormwater system in place in the City of Hayward and all new construction is required to connect to the existing infrastructure.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VII. HAZARDS AND HAZARDOUS MATERIALS - Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? <i>Comment: The text amendment allowing Motion Picture And Live Performance Theaters would not lead to the routine transport, use or disposal of hazardous materials.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? <i>Comment: See VII a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? <i>Comment: See VII a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?
<u>Comment:</u> See VII a. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?
<u>Comment:</u> This text amendment would allow Motion Picture and Live Performance Theaters within the in the General Commercial (CG), Neighborhood Commercial (CN), Neighborhood Commercial-Residential (CN-R), Central Business Districts and Central City-Commercial (CC-C) Subdistrict as permitted and conditional uses. Since each project would be reviewed on a case-by-case basis, this aspect would be analyzed if a theater were to be located within two miles of the Hayward Executive Airport. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?
<u>Comment:</u> See VII e. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?
<u>Comment:</u> See VII e. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?
<u>Comment:</u> See VII e. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

VIII. HYDROLOGY AND WATER QUALITY -- Would the project:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Violate any water quality standards or waste discharge requirements?
<u>Comment:</u> The text amendment does not violate Alameda County Flood Control and Water Conservation District regulations or Federal Clean Water Standards. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?
<u>Comment:</u> The text amendment will not result in the depletion of ground water supplies. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? <i>Comment: The text amendment will not result in substantial erosion or siltation on-or off-site.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? <i>Comment: The text amendment will not affect drainage patterns and will not cause flooding.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? <i>Comment: The text amendment will not will not have any affect on stormwater drainage. All theater projects will be required to be reviewed on a case-by-case basis.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality? <i>Comment: See VIII a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? <i>Comment: The text amendment will not directly result in the creation of housing. In the event that a mixed-use project is built, flood hazards would be analyzed at that time.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? <i>Comment: See VIII g.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? <i>Comment: See VIII g.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow? <i>Comment: The text amendment will not bring about a project that could be inundated by seiche, tsunami, or mudflow.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IX. LAND USE AND PLANNING - Would the project;

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Physically divide an established community?

<i>Comment: The text amendment will not result in a physical development that will divide an established community.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Comment: The text amendment is consistent with the General Plan and implements the policies of the General Plan, Land Use and Economic Development Elements, and the Downtown Design Plan and the Core Area Specific Plan..

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|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: The text amendment will not result in projects that would conflict with habitat conservation plan or natural community conservation plan.

X. MINERAL RESOURCES – Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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Comment: The text amendment will not affect mineral resources. All the zoning districts that theaters would be permitted are urban areas in the City of Hayward.

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: See X a.

XI. NOISE - Would the project result in:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: The text amendment will not expose people to noise. Any theater project that will results from the text amendment will be reviewed on a case-by-case basis.

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|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: See XI a.

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) A substantial permanent increase in ambient noise levels in the text amendment vicinity above levels existing without the project? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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Comment: See XI a

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| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?
<i>Comment: See XI a</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?
<i>Comment: See XI a.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?
<i>Comment: There are no private airstrips in the City of Hayward.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

XII. POPULATION AND HOUSING -- Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?
<i>Comment: This text amendment would allow Motion Picture and Live Performance Theaters within the in the General Commercial (CG), Neighborhood Commercial (CN), Neighborhood Commercial-Residential (CN-R), Central Business Districts and Central City-Commercial (CC-C) Subdistrict as permitted and conditional uses. It will not induce substantial population growth in any area.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?
<i>Comment: See XII a. Since the proposed use of "theater" would be permitted only in commercial zoning districts, a substantial number of housing units would not be affected.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?
<i>Comment: See XII a&b.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

XIII. PUBLIC SERVICES

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
a) Fire protection? <u>Comment:</u> This text amendment would allow Motion Picture and Live Performance Theaters within the in the General Commercial (CG), Neighborhood Commercial (CN), Neighborhood Commercial-Residential (CN-R), Central Business Districts and Central City-Commercial (CC-C) Subdistrict as permitted and conditional uses. Each project would be reviewed on a case-by-case basis with respect to Fire Code requirements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Police protection? <u>Comment:</u> See XIII a.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Schools? <u>Comment:</u> Adoption of the text amendment will not impact schools.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Parks? <u>Comment:</u> Adoption of the text amendment will not result in an impact on parks.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Other public facilities? <u>Comment:</u> Adoption of the text amendment will not result in an impact on public facilities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XIV. RECREATION --

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? <u>Comment:</u> Adoption of the text amendment will have no affect on parks or recreational facilities. Theaters would still be permitted, subject to a use permit, in commercial zoning districts.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? <u>Comment:</u> See XIV a.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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XV. TRANSPORTATION/TRAFFIC -- Would the project:

- a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: This text amendment would allow Motion Picture and Live Performance Theaters within the in the General Commercial (CG), Neighborhood Commercial (CN), Neighborhood Commercial-Residential (CN-R), Central Business Districts and Central City-Commercial (CC-C) Subdistrict as permitted and conditional uses. Since each project would be reviewed on a case-by-case basis that will include an analysis of traffic and parking impacts including level of service (LOS), emergency access, required parking, roadway configuration, public transportation and alternative transportation (e.g. bus turnouts, bike racks, etc.).

- b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: See XV a.

- c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: Air traffic will not be affected by the adoption of this text amendment.

- d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: See XV a.

- e) Result in inadequate emergency access?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: See XV a.

- f) Result in inadequate parking capacity?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: See XV a.

- g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: See XV a.

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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XVI. UTILITIES AND SERVICE SYSTEMS - Would the project:

- a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: This text amendment would allow Motion Picture and Live Performance Theaters within the in the General Commercial (CG), Neighborhood Commercial (CN), Neighborhood Commercial-Residential (CN-R), Central Business Districts and Central City-Commercial (CC-C) Subdistrict as permitted and conditional uses. Since each project would be reviewed on a case-by-case basis. It is anticipated that the projects permitted after the adoption of the text amendment will not be of a scale to affect waste water treatment o waste water capacity or available water supplies.

- b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: See XVI a.

- c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: See XVI a .

- d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: The City of Hayward operates its own wastewater facility. This facility has the capacity to accommodate the amount of wastewater that will be generated by a theater project. In addition, each project would be reviewed on a case-by-case basis. See XVI a.

- e) Result in a determination by the wastewater treatment provider, which serves or may serve the text amendment that it has adequate capacity to serve the project's demand in addition to the provider's existing commitments?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: See XVI a.

- f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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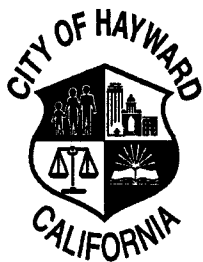
Comment: Each case will be reviewed on a case-by-case basis. And each theater would be served by Waste Management of Alameda County that will dispose the solid waste. The Altamont landfill is available to the City of Hayward until 2009 and has sufficient capacity to handle the amount of solid waste generated by the project. The landfill recently received an approval that increases the capacity and adds 25 years to the life of the landfill to the year2034.

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| g) Comply with federal, state, and local statutes and regulations related to solid waste? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Comment: See XVI f. Each future project study area would participate in the Waste Management of Alameda County recycling program. Construction and operation of the project will comply with all federal, state and local statutes and regulations related to solid waste.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE --

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 11/18/04
AGENDA ITEM 3
WORK SESSION ITEM

TO: Planning Commission

FROM: Director of Community & Economic Development/Planning Director

SUBJECT: Text Amendment Application PL-2004-0600 - Initiated by the Planning Director - Request for Amendments to the Zoning Ordinance Relative to Definition, Conditionally Permitted Use, and Minimum Design and Performance Standards for Theaters and to the Off-Street Parking Regulations for Theaters

RECOMMENDATION:

It is recommended that the Planning Commission recommend to the City Council that they approve the Negative Declaration and amend the Zoning Ordinance and the Off-Street Parking Regulations.

DISCUSSION:

On July 20, 2004, the City Council approved the construction of Cinema Place, a twelve screen cinema, restaurants, retail spaces and a 356 space parking structure at the corner of B Street and Foothill Boulevard. In conjunction with this project, the Redevelopment Agency also approved a Disposition and Development Agreement that provided for Agency sponsorship of 184 parking spaces in the development and lease terms necessary to make the development of the cinema financially feasible.

The Cinema Place project implements the City of Hayward General Plan Policy for the Downtown Area that states: "Maintain the Downtown as a focal point for the City so that it continues to express the City's history, provides a venue for cultural vitality, and retains its role as a center for social, political, and other civic functions." Cinema Place is designed to create a retail and entertainment anchor for the downtown, become the locus for shopping and eating establishments and stimulate the revitalization of B Street as a social and cultural center.

Cinema Place marks the achievement of another milestone in the continuing efforts of the City and Redevelopment Agency to revitalize the downtown, similar to the construction of the City Hall, development of over 850 units of new housing, and the addition of a new Albertson's/Sav-on store and associated retail shops. Earlier City and Agency efforts and financial commitments in the downtown have included establishment of the Business Improvement Area; loans for the retrofit of un-reinforced masonry buildings; loans and grants for façade improvements and business expansions; individualized and group marketing assistance; design guidelines and

façade and sign review by the Citizens Advisory Board; and development of the weekly Farmer's Market. More recent investments have included development of Newman and Giuliani Parks, rebuilding of downtown sidewalks, installation of new street furniture and expansion of public parking facilities. Continuing commitments involve monthly steam cleaning of streets and quarterly and annual street parties and holiday events.

Over the past ten years the City, the Redevelopment Agency, and many downtown businesses have invested many millions of dollars into this successful and growing revitalization effort. Consequently, staff is recommending text changes to the Zoning Ordinance that are designed to support the Downtown as a vital cultural, social and civic center and to protect the significant public and private investment that has been and continues to be made to that end.

The text changes recommended both define and clarify the nature of theaters and their appropriate location within the City. The current Zoning Ordinance text provides no definition for "Theater," but allows a "Theater" to be a primary use in five different commercial districts. The Off-Street Parking Regulations provide specific requirements with regard to number of parking spaces required for theaters, but there are other factors, such as impact on traffic and preexisting public investment, which are not addressed specifically in any ordinance but should also be considered when reviewing proposed development of new theaters.

Definition of Theater

Because there is no definition of "Theater" in the current ordinance, it is useful to define what is meant by the term. Review of several other zoning ordinances reveals a differentiation between a live performance theater and a cinema, wherein motion pictures are continuously projected on a screen. The number of screens in a cinema should also be taken into account when evaluating location and impacts. Staff has proposed a definition that subdivides the term "Theater" into three sub-categories: Small Motion Picture Theater, Large Motion Picture Theater and Live Performance Theater. The term Adult Motion Picture Theater is already defined in and regulated by the Adult Entertainment Activity Regulations of the current Zoning Ordinance. The proposed definitions are as follows:

THEATER. A building or outdoor structure where films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown, or an establishment regularly featuring live performance of dramatic productions, for any form of consideration.

- (a) **SMALL MOTION PICTURE THEATER.** An establishment having two (2) or fewer screens or less than two hundred (200) seats.
- (b) **LARGE MOTION PICTURE THEATER.** An establishment having three (3) or more screens or two hundred (200) or more seats and showing first run films. Large Motion Picture Theaters are also referred to as multi-plex or multi-screen theaters.
- (c) **LIVE PERFORMANCE THEATER.** An establishment having one or more stages and featuring live performance of dramatic, musical, dance or other artistic productions.

Location of Theaters

The Zoning Ordinance currently allows any type of theater as a primary use in the following Districts: General Commercial (CG), Neighborhood Commercial (CN), Neighborhood Commercial-Residential (CN-R), Central Business (CB), Central City-Commercial (CC-C), and Central City-Plaza (CC-P). The territory covered by these six districts is about 700 acres, and allows theaters to be located in almost every commercial area of the City (Exhibit A) with minimal review. While Small Motion Picture Theaters and Live Performance Theaters may be appropriate as primary uses in multiple commercial districts, it may also be appropriate to provide guidance with regard to the development of Large Motion Picture Theaters so that they assist rather than deter the revitalization of the downtown. The impacts associated with Large Motion Picture Theaters or multi-plexes, are significantly greater than those associated with other, smaller theaters. With a minimum of 200 seats and three or more screens, such multi-plexes draw a continuous stream of patrons from early afternoon through the late evening. It is important that there be sufficient parking and adequate street capacity for traffic in proximity to the theater to avoid negative impacts on adjacent businesses and surrounding residential areas. Requiring Large Motion Picture Theaters to be subject to a conditional use permit process would provide a forum to address these impacts.

The proposed text amendment to the Zoning Ordinance provides that Large Motion Picture Theaters be subject to a conditional use permit in all of the districts where Theaters are currently allowed by right, with the exception of the Central City-Plaza district and an area of the Central City-Commercial district bounded by A and D and Grand and Second Streets (Exhibit B). This exception continues to allow Large Motion Picture Theaters by right in the downtown core and protects the City's interest in furthering the downtown as a social, cultural and civic center.

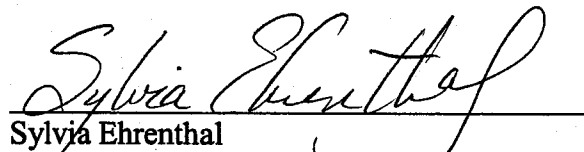
A change is also proposed to the Off-Street Parking Regulations, in which the current parking standard for theaters in the CC District is one space for each 315 square feet of gross floor area. It is recommended that this standard apply only to the downtown core area, bounded by A and D and Grand and Second Streets, and that the remainder of the CC District adhere to the same standard of one space for every four seats that applies to all other districts.

The proposed amendments also seek to avoid negative impacts of Large Motion Picture Theaters on surrounding properties by revising the Minimum Design and Performance Standards to demonstrate the ability to provide on-site parking at a ratio of one parking space for every four seats (the current standard in all but the CC District) and to maintain or improve the existing Level of Service at all affected intersections. In addition, the proposed standards require submission of an independent study documenting the absence of negative economic impact upon the downtown if another Large Motion Picture Theater were approved.

Conclusion

Staff recommends that the Planning Commission recommend to the City Council that they approve the Negative Declaration and amend the Zoning Ordinance and the Off-Street Parking Regulations as they pertain to Theaters.

Prepared by:

A handwritten signature in cursive script, reading "Sylvia Ehrental", written over a horizontal line.

Sylvia Ehrental

Director of Community and Economic Development/Planning Director

- Attachments:
- A Map of Districts Allowing Theaters as Primary Use
 - B Map of Downtown Core Area
 - C Text Change
 - D Negative Declaration and Environmental Checklist Form



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, November 18, 2004, 7:30 p.m.
777 B Street, Hayward, CA 94541**

future discussion. She would be supporting the substitute motion.

Commissioner Bogue moved, seconded by Commissioner McKillop, and carried, to deny the application to amend the Zoning Ordinance fence height.

AYES: COMMISSIONERS Lavelle, McKillop, Bogue,
CHAIR Sacks
NOES: COMMISSIONERS Thnay, Peixoto, Zermefio
ABSENT: COMMISSIONER None
ABSTAIN: COMMISSIONER None

3. **Use Permit Text Amendment Application No. PL-2004-0600 - Initiated by the Planning Director** – Request for Amendments to the Zoning Ordinance Relative to Definition, Conditionally Permitted Use, and Minimum Design and Performance Standards for Theaters and to the Off-Street Parking Regulations for Theaters

Staff report submitted by Director of Community & Economic Development/ Planning Director Ehrenthal, dated November 18, 2004, was filed.

Director of Community & Economic Development/ Planning Director Ehrenthal presented the staff recommendation and responded to Commission questions. In response to Commissioner Lavelle's request for clarification on the definition of cinema place and the definition of theater, Director of Community and Economic Development Ehrenthal responded that the language was more for convenience.

There were no questions from Planning Commissioners and no requests to speak.

Planning Commission Chair Sacks opened and closed the public hearing at 9:13 p.m.

Commissioner Thnay agreed that this is excellent foresight on behalf of staff. He moved, seconded by Commissioner Zermefio, to approve the staff recommendation.

There was a slight discussion on the definitions related to live performances.

Commissioner Thnay moved, seconded by Commissioner Zermefio, and unanimously carried, to accept the staff recommendation.

ADDITIONAL MATTERS

5. Oral Reports on Planning and Zoning Matters

Planning Manager Anderly announced that on December 4th there will be a Joint City Council/Planning Commission tour from 9 a.m. to 3 p.m.

6. Commissioners' Announcements, Referrals

Chair Sacks reported illegal cigarette signs at the corner of Tennyson and Huntwood and at the gas station next to it. She also reported junk shopping carts at the corner of Folsom and Tampa Streets. Chair Sacks announced a Planning Forum that will occur on December 1st at 6 p.m. in Redwood City. She also welcomed residents in Georgian Manor and Spanish Ranch mobile home parks as they are now receiving cable with community channels. Lastly, she announced that the Alameda County Planning Commission will be conducting a public hearing on the La Vista Quarry on December 6 at 6 p.m.

APPROVAL OF MINUTES

Minutes of November 4, 2004

The minutes were unanimously approved.

ADJOURNMENT

The meeting was adjourned by Chair Sacks at 9:22 p.m.

APPROVED:

Julie McKillop, Secretary
Planning Commission

ATTEST:

Angelina Reyes
City Clerk

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

Mal
12/8/04

**RESOLUTION ADOPTING THE NEGATIVE
DECLARATION AND APPROVING TEXT CHANGE
APPLICATION NO. 2004-0600, RELATING TO THEATERS**

WHEREAS, Text Change Application No. 2004-0600 requests certain amendments to the Hayward Municipal Code Chapter 10, Article 1, the City's Zoning Ordinance, relating to theaters, including the definition and requirements for use permits and off-street parking; and

WHEREAS, an initial study and negative declaration have been prepared and processed in accordance with City and CEQA guidelines; and

WHEREAS, the Planning Commission, at its meeting of November 18, 2004, considered the matter and recommended approval of the text changes and adoption of the Negative Declaration, and its action thereon is on file in the office of the City Clerk and is hereby referred to for further particulars.

NOW THEREFORE BE IT RESOLVED, that the City Council hereby finds and determines that:

- (1) Text Change Application No. 2004-0600 has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study has been prepared for the proposed project. The Initial Study has determined that the proposed project could not result in significant effect on the environment, therefore it is determined that adoption of the Negative Declaration is the appropriate action.
- (2) Substantial proof exists that the proposed changes will promote the public health, safety, convenience and general welfare of the residents of Hayward in that the changes are designed to support the Downtown as a vital cultural, social and civic center and to protect the significant public and private investment that has been and continues to be made to that end. Furthermore, the proposed amendments also seek to avoid the negative impacts of Large Motion Picture Theaters outside of the Downtown core on surrounding properties as a result of parking and traffic impacts by requiring a conditional use permit to address these impacts.

- (3) That the proposed text change is in conformance with the purposes of the Zoning Ordinance and all applicable, officially adopted policies and plans in that Large Motion Picture Theaters will be subject to a conditional use permit except within the Downtown core to protect the City's interest in furthering the downtown as a social, cultural and civic center.
- (4) That streets and public facilities existing or proposed are adequate to serve all uses permitted when the amendments are adopted in that the Off-Street Parking Regulations will not only provide specific requirements with regard to the number of parking spaces required for theaters, but will consider other factors, such as impact on traffic and preexisting public investment, which are not specifically addressed in any ordinance but should also be considered when reviewing the proposed development of new theaters. The proposed amendments also seek to avoid the negative impacts of Large Motion Picture Theaters by revising the Minimum Design & Performance Standards to demonstrate the ability to provide the appropriate on-site parking and to maintain or improve the existing level of service at all affected intersections.
- (5) All uses when the amendments are adopted will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations in that the changes recommended both define and clarify the nature of theaters and their appropriate location in the City.

BE IT RESOLVED, based on the findings noted above, that Text Change Application No. 2004-0600 is hereby approved, subject to the adoption of the companion ordinance relating to theaters.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2004

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DRAFT

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 10-1.3510,
10-1.1015, 10-1.1020, 10-1.1045, 10-1.815, 10-1.820, 10-
1.915, 10-1.920, 10-1.1315, 10-1.1320, 10-1.1522, 10-1.1523
AND 10-2.411 OF ARTICLE 1 OF CHAPTER 10 OF THE
HAYWARD MUNICIPAL CODE

Mal
12/8/04

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS
FOLLOWS:

Section 1. Section 10-1.3510 of the Hayward Municipal Code is hereby amended to
add the following definition:

"THEATER. A building or outdoor structure where films, motion pictures, video
cassettes, slide or similar photographic reproductions are regularly shown, or an establishment
regularly featuring live performance of dramatic productions, for any form of consideration.

(a) SMALL MOTION PICTURE THEATER. An establishment having two (2)
or fewer screens or less than two hundred (200) seats.

(b) LARGE MOTION PICTURE THEATER. An establishment having three
(3) or more screens or two hundred (200) or more seats and showing first run films. Large
Motion Picture Theaters are also referred to as multi-plex or multi-screen theaters.

(c) LIVE PERFORMANCE THEATER. An establishment having one or more
stages and featuring live or dramatic productions."

Section 2. Section 10-1.1015(a)(5) of the Hayward Municipal Code relating to uses
permitted in the General Commercial (CG) District is hereby amended to add the following:

"(ee) Theater (Small Motion Picture or Live Performance Only.)"

Section 3. Section 10-1.1020(b)(5) of the Hayward Municipal Code relating to uses
conditionally permitted in the General Commercial (CG) District is hereby amended to add the
following:

"(d) Theater, Large Motion Picture. (See Sec 10-1.1045 for special
requirements.)"

Section 4. Section 10-1.1045 of the Hayward Municipal Code relating to Minimum
Design and Performance Standards is hereby amended to add the following:

"w. Large Motion Picture Theaters shall demonstrate the ability to provide on-site parking at the ratio of one (1) parking space for every four seats and to maintain or improve the existing Level of Service at all affected intersections. In addition, a study acceptable to the Planning Director documenting the absence of negative impact upon the downtown of the opening of another Large Motion Picture Theater must accompany the application."

Section 5. Section 10-1.815(a)(5) of the Hayward Municipal Code relating to permitted uses in the Neighborhood Commercial (CN) District is hereby amended to add the following:

"(ff) Theater. (Small Motion Picture or Live Performance only.)"

Section 6. Section 10-1.820(b)(5) of the Hayward Municipal Code relating to conditionally permitted uses in the Neighborhood Commercial (CN) District is hereby amended to add the following:

"(d) Theater, Large Motion Picture. (See Sec. 10-1.1045 for special requirements.)"

Section 7. Section 10-1.915(a)(5) of the Hayward Municipal Code relating to permitted uses in the Neighborhood Commercial-Residential (CN-R) District is hereby amended to add the following:

"(ee) Theater. (Small Motion Picture or Live Performance only.)"

Section 8. Section 10-1.920(b)(5) of the Hayward Municipal Code relating to conditionally permitted uses in the Neighborhood Commercial-Residential (CN-R) District is hereby amended to add the following:

"(d) Theater, Large Motion Picture. (See Sec. 10-1.1045 for special requirements.)"

Section 9. Section 10-1.1315(a)(5) of the Hayward Municipal Code relating permitted uses in the Central Business (CB) District is hereby amended to add the following:

"(ee) Theater. (Small Motion Picture or Live Performance only.)"

Section 10. Section 10-1.1320(b)(5) of the Hayward Municipal Code relating to conditionally permitted uses in the Central Business (CB) District is hereby amended to add the following:

"(d) Theater, Large Motion Picture. (See Sec. 10-1-1045 for special requirements.)"

Section 11. Section 10-1.1522(a)(5) of the Hayward Municipal Code relating to permitted uses in the Central City-Commercial (CC-C) Subdistrict is hereby amended to add the following:

“(cc) Theater (Small Motion Picture or Live Performance. Large Motion Picture Theater located between A and D Streets and Grand and Second Streets.)”

Section 12. Section 10-1.1523(b)(5) of the Hayward Municipal Code relating to conditionally permitted uses in the Central City-Commercial (CC-C) Subdistrict is hereby amended to add the following:

“(a) Theater, Large Motion Picture. (Located outside area between A and D Streets and Grand and Second Streets. See Sec. 10-1.1045 for special requirements.)”

Section 13. Section 10-1.1542(a)(5) of the Hayward Municipal Code relating to permitted uses in the Central City-Plaza (CC-P) Subdistrict Requirements is hereby amended to add the following:

“(bb) Theater. (Small Motion Picture, Large Motion Picture or Live Performance.”

Section 14. Section 10-2.411 of the Hayward Municipal Code relating to parking requirements in the Central Parking District for nonresidential parking is hereby is hereby amended to read as follows:

“1.0 space for each 315 square feet of gross floor area except for theaters; 1.0 space for each 4.0 seats.

An increase in the number of dwelling units within an existing building or the conversion of a non-residential use to residential within the Central Parking District shall not require providing parking spaces.”

Section 15. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 15. Effective Date. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective upon its adoption.

INTRODUCED at a regular meeting of the City Council of the City of
Hayward, held the _____ day of _____, 2004, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward
held the _____ day of _____, 2004, by the following votes of members of said City
Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward